IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

THURSDAY, THE TWENTY FIFTH DAY OF NOVEMBER
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE MR JUSTICE B.PRAKASH RAO

WRIT PETITION NO : 10638 of 1994

Between:

Sri Kedarnath aged about 74 yrs

Son of Pannalal, r/oo 1-9-1103,

Vidyanagar, Hyderabad.

..... PETITIONER

AND

1.The Chief Engineer, Electricity

Metro Zone, APSEB ,Mint Compound

Hyderabad.

2.The Superintending Engineer,

Electrical Assessments (Special)APSEB,

4th floor, New Octogonal buildings,

Auditorium end, Vidyut souda, Hyderabad.

3.The Asst.Divisional Enginer, (Operation)

APSEB, P.R.Nagar, Hyderabad.

(R2 and R3 dismissed for default as per Court order, dated 21-9-1999)

--.RESPONDENTS

Petition under Article 226 of the Constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court may be pleased to issue a direction, order or writ in the nature of Certiorari quashing the order dated 30-5-1994 passed by the 1st respondent and direct the 1st respondent to accept the appeal of the petitioner.

Counsel for the Petitioner: MR.A.SANJAY KISHORE

Counsel for the Respondents: SMT.M.VINOBHA DEVI ,STANDING COUNSEL FOR APSEB

The Court made the following :

ORDER

Heard Sri Ravi, learned Senior Counsel appearing on behalf of the petitioner and also learned Standing Counsel appearing on behalf of the respondent.

The petitioner herein, who is running a Textile Processing Unit, files this Writ Petition seeking to assail the final assessment as confirmed in appeal. The case of the petitioner is that in pursuance of the inspection made on 4-3-1992 a notice has been given and thereafter the petitioner has filed reply and ultimately the final orders were passed on 30-11-1992 assessing the loss at Rs.1,50,737-60 paise. Though the petitioner has filed further appeal, the same was dismissed on 30-5-1994, Hence the Writ Petition.

The learned counsel for the petitioner submits that it is only on the guesswork, the demand was made. Hence there could not have been any such demand and the impugned proceedings are totally vitiated.

The learned Standing Counsel appearing on behalf of the respondent submits that having regard to the finding of fact arrived at, it is not open to the petitioner to assail the same. Hence there are no merits in the Writ Petition and it is liable

to be dismissed.

Considering the submissions made and on perusal of the material, it is seen that the inspection was made as long back as on 4-3-1992 and final assessment order was issued for a sum of Rs.1,50,737-60 paise which was also confirmed in the appeal and having regard to the finding of fact arrived at by both the authorities with regard to pilferage, it is not open for this Court to go into the merits. Be that as it may, taking into consideration the circumstances, since the impugned order is passed on mere guesswork, it cannot be said that the same is reasonable or justified and the said demand is on higher side.

In view of the same, the Writ Petition is accordingly allowed confirming the orders of both authorities. However, the amount of demand is reduced from Rs.1,50,737-60 paise to Rs.75,368-80 paise. It is needless to mention that any amounts paid in the meanwhile, shall be given credit to. No costs.

25-11-2004.

Hsd

That Rule Nisi has been made absolute as above.

Witness Hon'ble Sri Devinder Gupta, the Chief Justice, on this Thursday, the Twenty Fifth day of November Two Thousand and Four.

Asst.Registrar.

To

1.The Chief Engineer, Electricity

Metro Zone, APSEB ,Mint Compound

Hyderabad.

2.2 CD copies.